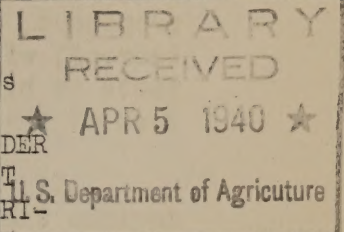


Notice of hearing signed by
the Secretary of Agriculture
March 14 , 1940.

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UNITED STATES DEPARTMENT OF AGRICULTURE
Division of Marketing and Marketing Agreements



PROPOSED MARKETING AGREEMENT AND PROPOSED ORDER
REGULATING THE HANDLING OF MILK IN THE CALUMET
MARKETING AREA UPON WHICH THE SECRETARY OF AGRICULTURE
HAS ISSUED NOTICE OF HEARING UNDER THE
AGRICULTURAL MARKETING AGREEMENT ACT OF 1937

The Pure Milk Association of Chicago, Illinois, has presented the Secretary with a petition for a public hearing on a proposed marketing agreement and a proposed order regulating the handling of milk for the Calumet marketing area under the Agricultural Marketing Agreement Act of 1937. The proposed provisions of the marketing program set forth below have been suggested by the above producers' association which represents approximately 50 percent of the dairymen supplying milk to the Calumet market.

The Agricultural Marketing Agreement Act of 1937 authorizes the Secretary of Agriculture after due notice of, and opportunity for, hearing to enter into marketing agreements with, and to issue orders applicable to, processors, producers, associations of producers, and others engaged in the handling of milk and its products in the current of interstate or foreign commerce, and authorizes the Secretary to call hearings whenever he has reason to believe that the issuance of an order and/or the execution of an agreement will tend to effectuate the declared policy of the act. In simple terms, as applied to milk, the declared policy of the act is to establish and maintain such orderly marketing conditions for milk in interstate commerce as will establish prices for milk at a level which will give that milk a purchasing power with respect to articles that farmers buy equivalent to its purchasing power in a prescribed base period, after taking into account the available supplies of feed, the prices of feed, and other economic conditions affecting the demand for and the supply of milk.

In response to the petition of the above-named association, the Secretary of Agriculture has issued notice of a public hearing to be held at 10:00 a. m., central standard time, March 25, 1940, in the Ballroom of the Gary Hotel, Gary, Indiana.

At the above time and place opportunity will be given for interested parties to present evidence (1) as to whether or not any marketing agreement and order should be issued, and (2) as to each and every provision set forth below and as to changes to such provisions which may be proposed in the course of the hearing. It is suggested that each interested party who so desires carefully present all the facts which he feels the Secretary of Agriculture should have in the record of the public hearing upon which to base a decision, (1) as to the issuance of an order, and (2) if an order is to be issued,

what provisions such an order is to contain. The best interests of a proponent, or of an opponent, of the whole proposal, or any provision thereof, will best be served by concise presentation of the relevant facts in his possession, reserving his arguments for filing in written form at the close of the hearing session.

If, upon the facts in the record, the Secretary of Agriculture decides that an order should be issued, the content of the order, based upon the facts in the record, will then be made known to producers and their approval or disapproval determined as to whether the order shall become effective. The content of the order will be the same as that of a marketing agreement which handlers will be given opportunity to sign.

The provisions proposed by the above-named association are set forth below as possible provisions of a marketing agreement and of an order. Their publication in this form is for the convenience of interested parties and is not to be considered as in any way signifying their approval or disapproval by the Secretary of Agriculture.

Section 1 Definitions. (a) Terms. The following terms, as used herein, shall have the following meanings:

(1) The term "Calumet marketing area" hereinafter called the "marketing area" means all of the territory in Lake County, State of Indiana, all of the territory within the corporate limits of the cities of Burnham, Calumet City, and Lansing in Cook County, Illinois, and all of the territory in Cook County, State of Illinois, South of the south corporate limits of the city of Chicago, and east of the line of Torrence Avenue extended southerly from the south corporate limits of the city of Chicago to the south boundary line of Cook County.

(2) The term "person" means any individual, partnership, corporation, association, or any other business unit.

(3) The term "market administrator" means the person designated pursuant to Sec. 2 as the agency for the administration hereof.

(4) The term "delivery period" means the current marketing period from the first to the last day of each month, both inclusive.

(5) The term "Secretary" means the Secretary of Agriculture of the United States.

(6) The term "producer" means any person, irrespective of whether any such person is also a handler, who produces milk which is received at a plant from which milk is disposed of in the marketing area: Provided, That if such producer has not regularly disposed of milk in the marketing area during the period of 30 days immediately prior to the effective date hereof, but begins the regular delivery of milk to a handler, he shall be known as a "new producer" for a period beginning with the date of his first delivery of milk and including the first 2 full calendar months of regular delivery following the date of such first delivery to a handler, after which he shall be known as a producer.

(7) The term "handler" means any person, irrespective of whether such person is a producer or a cooperative association, wherever located or operating who, on his own behalf or on behalf of others, purchases or receives milk from producers, associations of producers, or other handlers, all, or a portion, of which milk is disposed of as milk in the marketing area and who, on his own behalf or on behalf of others, engages in such handling of milk as is in the current of interstate commerce or which directly burdens, obstructs, or affects interstate commerce in milk and its products.

(8) The term "cooperative association" means any cooperative association of milk producers which the Secretary determines (a) to have its entire activities under the control of its members, and (b) to have and to be exercising full authority in the sale of milk of its members.

(9) The term "act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C.A. 601, et seq.).

Sec. 2 Market administrator. (a) Designation. The agency for the administration hereof shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

(b) Powers. The market administrator shall:

(1) Administer the terms and provisions hereof;

(2) Report to the Secretary complaints of violation of the provisions hereof.

(c) Duties. The market administrator shall:

(1) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in an amount and with surety thereon satisfactory to the Secretary.

(2) Pay, out of the funds provided by Sec. 9, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office.

(3) Keep such books and records as will clearly reflect the transactions provided for herein and surrender the same to his successor or to such other person as the Secretary may designate.

(4) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who, within 10 days after the date upon which he is required to perform such acts, has not (a) made reports pursuant to Sec. 3, or (b) made payments pursuant to Sec. 8.

(5) Promptly verify the information contained in the reports submitted by handlers.

Sec. 3 Reports of handlers. (a) Submission of reports. Each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) On or before the 4th day after the end of each delivery period (a) the receipts of milk at each plant from producers, (b) the receipts of milk at each plant from handlers, (c) the receipts at each plant of the milk, if any, produced by him, (d) the utilization of all receipts of milk for the delivery period, and (e) the name and address of each new producer.

(2) Within 10 days after the market administrator's request with respect to any producer for whom such information is not in the files of the market administrator and with respect to a period or periods of time designated by the market administrator (a) the name and address, (b) the total pounds of milk delivered, (c) the average butterfat test of milk delivered, and (d) the number of days upon which deliveries were made.

(3) On or before the 20th day after the end of each delivery period, his producer pay roll, which shall show for each producer (a) the total delivery of milk with the average butterfat test thereof, (b) the net amount of the payment to such producer made pursuant to Sec. 8, and (c) any deductions and charges made by the handler.

(4) On or before the 7th day after the end of such delivery period, the sale or disposition of milk outside the marketing area, pursuant to Sec. 5(b) as follows: (a) the amount and utilization of such milk, (b) the butterfat test thereof, (c) the date of such sale or disposition, (d) the point of use, (e) the plant from which such milk is shipped, and (f) such other information with respect thereto as the market administrator may request.

(5) Upon the request of the market administrator, a schedule which shall show transportation rates which are charged and paid for the transportation of milk from the farm of each producer and new producer to such handler's plant.

(6) On or before the 5th day after any changes are made in the schedule filed in accordance with subparagraph (5) of this paragraph, a copy of the revised schedule with the effective dates of such changes as may appear in the revised schedule.

(b) Verification of reports. Each handler shall make available to the market administrator or his agent (1) those records which are necessary for the verification of the information contained in the reports submitted in accordance with this section, and (2) those facilities necessary for the check-weighing, testing, and sampling of milk and for determining the utilization of milk by the handler.

Sec. 4 Classification of milk. (a) Basis of classification. All milk purchased or received by a handler from producers, associations of producers, and other handlers, including milk produced by him, if any, shall be classified by the market administrator in the classes set forth in paragraph (b) of this section.

(b) Classes of utilization. The classes of utilization of milk shall be as follows:

(1) Class I milk shall be all milk disposed of in the form of fluid milk, and all milk not accounted for as Class II milk or Class III milk.

(2) Class II milk shall be all milk, except skimmed milk, used to produce cottage cheese, all milk disposed of in the form of flavored milk and flavored milk drinks, and all milk used to produce cream which is disposed of in the form of cream (for consumption as cream).

(3) Class III milk shall be all milk used to produce a milk product other than those specified in Class II milk, and all milk accounted for as actual plant shrinkage, but not to exceed 1 percent of the total receipts of milk from producers.

(c) Interhandler and nonhandler sales. Milk disposed of by a handler to another handler, and milk disposed of by a handler to a person who is not a handler but who distributes milk or manufactures milk products, shall be classified as Class I milk: Provided, That if the selling handler on or before the 4th day after the end of the delivery period furnishes to the market administrator a statement which is signed by the buyer and seller that such milk was disposed of as Class II milk or Class III milk, such milk shall be classified accordingly, subject to verification by the market administrator.

Sec. 5 Minimum prices. (a) Class prices. Except as set forth in paragraph (b) of this section, each handler shall pay, at the time and in the manner set forth in Sec. 8, for milk purchased or received from producers at such handler's plant, not less than the following prices:

Class I milk - Add to the average price per hundredweight for milk of 3.5 percent butterfat content, computed pursuant to the formula as set forth in Sec. 1 of Article VI of the Marketing Agreement for Evaporated Milk issued by the Secretary on May 31, 1935, or the last amendment thereto, if any, 80 cents per hundredweight for the months of July, August, September, October, and November; 65 cents per hundredweight for the months of December, January, February, March, and April; and 55 cents per hundredweight for the months of May and June: Provided, That with respect to Class I milk disposed of under a program approved by the Secretary for the sale or disposition of milk to low-income consumers, including persons on relief, the price shall be per hundredweight.

Class II milk - Add to the average price per hundredweight for milk of 3.5 percent butterfat content, computed pursuant to the formula set forth in Sec. 1 of Article VI of the Marketing Agreement for Evaporated Milk issued by the Secretary on May 31, 1935, or the last amendment thereto, if any, 25 cents per hundredweight.

Class III milk - Multiply by 3.5 the average price per pound of 92-score butter at wholesale in the Chicago market, as reported by the United States Department of Agriculture for the delivery period during which such milk was received, and add 20 percent thereof.

(b) Sales outside the marketing area. The price to be paid by a handler for Class I milk disposed of outside the marketing area, in lieu of the price otherwise applicable pursuant to this section, shall be the price, as ascertained by the market administrator, which is being paid in the market where such milk is disposed of, for milk of equivalent use.

Sec. 6. Application of provisions. (a) Handlers who are also producers. (1) No provision hereof shall apply to a handler who is also a producer and who purchases or receives no milk from producers or an association of producers, except that such handler shall make reports to the market administrator at such time and in such manner as the market administrator may request and permit the market administrator to verify the information contained in such reports.

(2) In the case of a handler who is also a producer and who purchases or receives milk from producers or an association of producers, the market administrator, before making the computations set forth in Sec. 7, shall (a) exclude the milk purchased or received by him in each class from other handlers, (b) exclude pro rata from his remaining Class I milk and Class II milk up to but not exceeding 95 percent of the quantity of milk produced and disposed of by him, and (c) exclude from his remaining Class III milk the balance of the milk produced and disposed of by him.

(3) The market administrator, in computing the value of milk for any handler pursuant to Sec. 7, shall consider as Class III milk any milk or cream received in bulk by such handler from a handler as described in paragraph (a)(1) of this section. If the receiving handler disposes of such milk or cream for other than Class III purposes, the market administrator shall add to the total value computed pursuant to Sec. 7 the difference between (a) the value of such milk or cream at the Class III price and (b) the value according to its use.

Sec. 7 Determination of uniform prices to producers. (a) Computation of value of milk for each handler. For each delivery period the market administrator shall compute, subject to the provisions of Sec. 6(a), the value of milk of producers and new producers received by each handler by (a) multiplying the quantity of such milk in each class by the price applicable pursuant to Sec. 5, and (b) adding together the resulting values of each class.

(b) Computation of uniform price for each handler. The market administrator shall compute for each handler the uniform price per hundredweight of milk received at such handler's plant as follows:

(1)(a) Multiply the hundredweight of Class I milk and of Class II milk sold or disposed of in the marketing area by the respective class prices, (b) multiply the hundredweight of Class III milk by the Class III price, (c) add together the resulting amounts, and (d) add to the sum obtained in (c) of this subparagraph an amount equal to the total value of milk determined in accordance with Sec. 5(b);

(2) Subtract the total amount to be paid pursuant to Sec. 8(a)(2);

(3) If, in the verification of the reports of such handler the market administrator discovers errors in such reports there shall be added or subtracted as the case may be, the amount of money to correct such errors;

(4) Divide by the hundredweight of milk received from producers other than the milk represented by the amount subtracted in subparagraph (2) of this paragraph; and

(5) Adjust the resulting price to the nearest cent.

(c) Announcement of prices. On or before the 8th day after the end of each delivery period the market administrator shall mail to all handlers and publicly announce (a) such of these computations as do not disclose information confidential pursuant to the act, (b) the uniform price computed for him and the price for milk received from new producers, and (c) the price of Class I milk, Class II milk, and Class III milk used in the computations made pursuant to paragraph (b) of this section.

Sec. 8 Payment for milk. (a) Time and method of payment. On or before the 15th day after the end of each delivery period each handler shall pay each producer, for milk purchased or received during the delivery period, an amount of money representing not less than the total value of such milk, at the uniform price per hundredweight computed pursuant to Sec. 7, subject to the butterfat differential set forth in paragraph (c) of this section, as follows:

(1) To producers, except as set forth in subparagraph (2) of this paragraph, at not less than the uniform price per hundredweight computed for such handler pursuant to paragraph (b) of Sec. 7; and

(2) To each new producer, as defined in Sec. 1(a)(6), at the Class III price.

(b) Adjustments of errors in payment. Whenever verification by the market administrator of reports or payments of any handler discloses errors made in such reports or payments, the market administrator shall promptly bill such handler for any adjustment or unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the amount so billed. Whenever verification by the market administrator of the payment by a handler to any producer or new producer for milk purchased or received by such handler discloses payment of less than is required by this section, the handler shall make up such payment not later than the time of making payment to producers and new producers next following such disclosure.

(c) Butterfat differential. If any handler has purchased or received from any producer or new producer, during any delivery period, milk having an average butterfat content other than 3.5 percent, such handler, in making payments to such producer or new producer, shall add to the price for such producer or new producer for each one-tenth of 1 percent of average butterfat content above 3.5 percent not less than, or shall deduct from the price for such producer or new producer for each one-tenth of 1 percent of average butterfat content below 3.5 percent not more than, 4 cents per hundredweight.

Sec. 9. Expense of administration. (a) Payments by handlers. As his pro-rata share of the expense of the administration hereof each handler, except those handlers exempt from the provisions hereof as set forth in Sec. 6(a) and except those handlers subject to the provisions of Chapter 281, Acts of the General Assembly of the State of Indiana for the year 1935, as amended, shall pay to the market administrator, on or before the 15th day after the end of each delivery period, a sum not exceeding 2 cents per hundredweight with respect to all milk purchased or received by him during such delivery period from producers and new producers, or produced by him, the exact sum to be determined by the market administrator, subject to review by the Secretary: Provided, That each handler which is a cooperative association shall pay such pro-rata share of expense of administration only on that milk of producers and new producers actually received at a plant of such cooperative association, or caused to be delivered by such cooperative association to a plant from which no milk is disposed of in the marketing area.

(b) Suits by market administrator. The market administrator may maintain a suit in his own name against any handler for the collection of such handler's pro-rata share of expense set forth in this section.

Sec. 10. Marketing services. (a) Marketing service deduction. In making payments to producers and new producers pursuant to Sec. 8, each handler, with respect to all milk received from each producer and new producer during each delivery period, except as set forth in paragraph (b) of this section, shall deduct 3 cents per hundredweight, or such lesser amount as the market administrator shall determine to be sufficient, such determination

to be subject to review by the Secretary, and shall, on or before the 15th day after the end of such delivery period, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator for verification of weights, samples, and tests of milk received from such producers and new producers and for providing market information to such producers and new producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk received from, such producers and new producers.

(b) Marketing service deductions with respect to members of a cooperative association. In the case of producers and new producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing the services set forth in paragraph (a) of this section each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from payments for milk made pursuant to Sec. 8 as may be authorized by such producers and new producers, and on or before the 15th day after the end of each delivery period pay such deductions to the associations rendering such service.

Sec. 11. Market advisory committee. (a) Subsequent to the effective date hereof, the market administrator may select a committee, representative of the industry for the purposes (1) of recommendation of amendments hereto, and (2) of conference, counsel, and advice.

N.B. In addition to the foregoing the following provisions are proposed to be included in a marketing agreement.

Sec. 12. Effective time, suspension, or termination of marketing agreement. (a) Effective time. The provisions hereof, or any amendment hereto, shall become effective at such time as the Secretary may declare and shall continue in force until suspended, or terminated, pursuant to paragraph (b) of this section.

(b) Suspension or termination of marketing agreement. The Secretary may suspend or terminate this agreement or any provision hereof, whenever he finds that this agreement or any provision hereof obstructs or does not tend to effectuate the declared policy of the act. This agreement shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

(c) Continuing power and duty of the market administrator. If, upon the suspension or termination of any or all provisions hereof, there are any obligations arising hereunder, the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: Provided, That any

such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(1) The market administrator, or such other person as the Secretary may designate, shall (a) continue in such capacity until removed by the Secretary, (b) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator or such person, to such person as the Secretary shall direct, and (c) if so directed by the Secretary execute such assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

(d) Liquidation after suspension or termination. Upon the suspension or termination of any or all provisions hereof the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions hereof, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

Sec. 13 Liability. (a) Liability of handlers. The liability of the handlers hereunder is several and not joint, and no handler shall be liable for the default of any other handler.

Sec. 14 Counterparts and additional parties. (a) Counterparts of marketing agreement. This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary all such counterparts shall constitute, when taken together, one and the same instrument as if all such signatures were obtained in one original.

(b) Additional parties to marketing agreement. After this agreement first takes effect any handler may become a party to this agreement if a counterpart thereof is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

UNITED STATES DEPARTMENT OF AGRICULTURE
DIVISION OF MARKETING AND MARKETING AGREEMENTS
WASHINGTON, D. C.

NOTICE OF HEARING WITH RESPECT TO A PROPOSED
MARKETING AGREEMENT AND PROPOSED ORDER REGU-
LATING THE HANDLING OF MILK IN THE CALUMET
MARKETING AREA, PREPARED AND PROPOSED BY THE
PURE MILK ASSOCIATION OF CHICAGO, ILLINOIS,
UPON WHICH SAID ORGANIZATION HAS REQUESTED
THE SECRETARY OF AGRICULTURE TO HOLD A HEAR-
ING UNDER THE AGRICULTURAL MARKETING AGREEMENT
ACT OF 1937.

WHEREAS, the Pure Milk Association of Chicago, Illinois, has requested the Secretary of Agriculture to hold a public hearing on a proposed marketing agreement and order prepared and proposed by said organization and designed to regulate such handling of milk in the Calumet marketing area as is in the current of interstate commerce, or which directly burdens, obstructs or affects interstate commerce; and

WHEREAS, the Secretary of Agriculture has reason to believe that the execution of a marketing agreement and the issuance of an order will tend to effectuate the declared policy of Public Act No. 10, 73rd Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, with respect to such handling of milk in the Calumet marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce; and

WHEREAS, under said act notice of and opportunity for a hearing are required prior to the execution of a marketing agreement and the issuance of an order, and the General Regulations, Series A, No. 1, as amended, of the Agricultural Adjustment Administration, United States Department of Agriculture, provide for such notice:

NOW, THEREFORE, pursuant to said act and said general regulations, notice is hereby given of a public hearing to be held in the Ballroom, Gary Hotel, Gary, Indiana, beginning at 10:00 a.m., c.s.t., March 25, 1940, on the aforementioned marketing agreement and order prepared and proposed by the aforementioned organization and designed to regulate such handling of milk in the Calumet marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce.

At this public hearing, representatives of the Secretary will receive factual evidence (1) as to whether marketing conditions for such handling of milk in the Calumet marketing area as is in the current of interstate commerce or which directly burdens, obstructs or affects interstate commerce are so disorderly as to necessitate regulation of the handling of such milk in order that the declared policy of the act may be effectuated, and (2) as to the specific provisions which a marketing agreement or order should contain.

The proposed marketing agreement and order provide, among other things, for: (1) definition of the marketing area, (2) selection of a market administrator, (3) reports of handlers, (4) classification of milk, (5) minimum prices to producers, (6) payments to producers through the use of individual handler pools, (7) expenses of administration, and (8) payments to the market administrator for marketing services.

It is hereby declared that an emergency exists in the handling of milk in the aforesaid area and it is hereby determined that the period of notice of said hearing hereby given is reasonable under the circumstances.

Copies of the proposed marketing agreement and order may be obtained from the Hearing Clerk, Office of the Solicitor, United States Department of Agriculture, in Room 0310 South Building, Washington, D. C., or may be there inspected.

/s/ H. A. WALLACE

Secretary of Agriculture

Dated: March 14, 1940

Washington, D. C.